

pending in the federal courts, habeas cases or other cases pending in the federal courts, and in that...in those cases under this statute change, the Secretary of State would be required to set an execution date whether or not there were federal cases...there is a federal case pending?

SENATOR CHAMBERS: That's correct.

SENATOR ASHFORD: Well, is there anybody that can explain to me how that could happen? How could a state set an execution date when there was a federal habeas case pending?

SENATOR CHAMBERS: Well, if they set it, I think the lawyer for the condemned person would simply notify the federal court and they would slap down the state court and they might do it with some strong language as they have done in speaking to Nebraska about the way they've handled some death cases.

SENATOR ASHFORD: Okay. I'm trying to figure out honestly, and I know obviously we've cleared the place now, but not exactly, almost, that's what...when I call somebody up and if somebody answers,...

PRESIDENT ROBAK: One minute.

SENATOR ASHFORD: ...I ask if anybody there, and they are here, always sort of offended because they say, well, I'm here, you know. Anyway, but I'm trying, and I wish somebody who is supportive of this particular provision and I understand Senator Witek's point and there are a number of people out there who feel that once there's a conviction that there should be a death sentence carried out. I understand there are people that believe that. I understand that and she is voicing that frustration level. Here's, though, what I wish somebody could explain to me is why are we doing this? Where has there ever been a situation where...and could a federal court, in any situation where a federal court would not, in fact, order the state not to carry out an execution? Is this just form over substance is what I'm getting at. Is this just form over substance because I cannot imagine a case where if there's a federal case pending the state has...

PRESIDENT ROBAK: Time. Thank you, Senator Ashford. Senator Witek, your light is next, followed by Senators Abboud, Bernard-Stevens, Schimek, and Ashford.